[20th December 1956

APPENDIX I.

(*Extract from the proceedings of the Legislative Assembly, dated 14th March 1955.*)

Serving of Arrest Warrant on an hon. Member of the House.

Mr. SPEAKER : It is my desire to bring a matter of breach of privileges before the House under rule 187. Rule 187 lays down that " notwithstanding anything contained in these rules, the Speaker may *suo motu* refer any question of privilege to the Committee of Privileges for examination, investigation or report ".

Under rule 187, I desire to refer an important matter to the Committee of Privileges to be decied by it. On 19th February 1955, while a Committee of the House was sitting to consider the Madras Indebted Agriculturists (Repayment of Debts) Bill, the Secretary to the Legislature received a letter by post from a Judicial Sub-Magistrate in the district of South Kanara requesting him to inform me of the fact that he had issued a bailable warrant against a Member of the Legislature. That Member was a Member of the Committee and was at that time sitting at a meeting of the Committee. I instructed the Secretary to contact the Hon. the Leader of the House and to inform him that the service of a legal process or the execution of a legal process, within the precincts of the Legislature during the sitting of a House or a Committee of the House would be a breach of privilege. I am glad to say that the Hon. the Leader of the House prevented the execution of the bailable warrant on the hon. Member at the time. Two weeks ago, another Member informed me that a constable wanted to serve a summons on him within the building of the Assembly. When I brought this to the notice of the Hon. the Leader of the House, he again prevented it. There is no use in blaming the police for acts like these as they are ignorant of the privileges of the House. Even in England where the orders to the police regarding matters of privilege are precise, the police officials now and then commit mistakes. In order to avoid similar occurrences in future, I desire to lay before the House certain facts regarding the question of privilege within the precincts of the House.

In England on the 12th January 1889, a police order was passed in the following terms :—

> 'Criminal process may not be served or executed on any Member of Parliament within the Palace of Westminster or within the palace yard without the leave of the House ; and no action whatever will be taken by police in such cases without the special instructions of the Commissioner.'

This order was made as the result of the report of the Select Committee of the Commons appointed to consider the attempt by

20th December 1956]

a police officer to serve a summons upon a Member of the Parliament in the outer Lobby of the House. The Select Committee had expressed the opinion that the action of the police officer was :

' a breach of the Privileges of the House, inasmuch as it was an attempt to serve a summons upon a Member, within the precincts of the House, while the House was sitting, without the leave of the House first obtained.'

' I hope the hon. Members of this House will observe that the police order is not limited to the time while the House is sitting.

I have asked the Secretary to the State Legislature to write to the Government to issue similar instructions to the Police officers in this State.

Service of process even upon a stranger or officer of the Legislature within the precincts of the House while the House is sitting is a breach of privilege.

In 1945 a Committee was appointed by the House of Commons to go into this matter. There, process was served on an officer of the House. The matter was referred to the Committe of Privileges of the House of Commons. I am now quoting from the report of that Committee which says :

' If, then, service of process on a member within the precints of the House, while the House is sitting, without the leave of the House first obtained, is a breach of privilage, the reason must be that it is deemed disrespectful to the House. For a stranger admitted within the parlimentary precincts with the permission, express or tacit, of the House to presume to serve the process of an inferior tribunal in the presence, actual or constructive, of the House is clearly an abuse of the privilege of admission to the House, and a violation of the dignity of the High Court of Parliament. As the essence of the offence is the insult to the House, it is immaterial whether the person on whom the process is served is a member or not.'

Regarding service of process within the precincts of the House while the House is not sitting, the same Committee says :

' As regards service of process within the precincts on sitting days, it would be impracticable to limit the time during which it would constitute a breach of privilege strictly to the hours during which the House was sitting. It must be extended for at least a reasonable time before the meeting and after the rising of the House.'

Further it says :

' If a stranger were to resort to the Palace of Westminster in order to avoid arrest, it would be competent to the Speaker to direct him to be removed from within the precincts.'

As regards persons who reside within the Palace of Westminster, just like our friend Dr. P. Varadarajulu Naidu here (laughter)—I am only mentioning his name as an instance—this is what the Committee says . . .

Sri P. G. KARUTHIRUMAN : " What about those residing in the Legislators Hostel, Sir? "

Mr. SPEAKER : Yes, I will come to that aspect also. Now, as regards persons residing within the Palace of Westminster, the Committee says :

' The Service of Process (Justices) Act 1933, enables a summons to be effectively served upon a defendant at his last or usual place of abode by registered post. It is not likely that the service or execution of process would often

[20th December 1956

be a matter of such urgency that to wait until the leave of the House had been obtained to serve or execute it would defeat the ends of justice. It is was feared that such a result would follow, application would be made to the Speaker who would doubtless authorise the process to be served or executed relying on the House to ratify his action.

'The protection from service or execution of process afforded by the dignity of the House in no way affects the right of Police officers on duty within the precinct to arrest strangers who having been admitted to the Palace of Westminster, commit criminal offencers or are thought to be a out to do so, subject to this that they must refrain from entering the House itself while it is sitting unless they have previously received its permission.'

I hope that the Government will communicate all this to the police so that they may know the exact limits of their authority.

In England the expression 'Precincts of the House' means 'Within the building at Westminster or within the Palace Yard'. In this Legislature the question is complicated by the fact that while the House sits in one place, its committees sit in various other places. Sometimes, a committee sits in the Committee Room at Fort St. George. Sometimes it sits in one of the rooms in the building allotted to the Ministers in the Government Estate and of late it has been sitting in a room in the Old Legislators' Hostel in the Government Estate. Moreover the Library of the Legislature which must be regarded as part of the precincts of the House is situated at a distance, in the cellar under the Rajaji Hall".

The Hon. Sri C. SUBRAMANIAM: "Suppose the Committee were to sit outside the City itself, for instance, in Kozhikode or some other place, Sir?"

Mr. SPEAKER. "I am coming to that also. The refreshment room attached to the House is a temporary shed put up in the yard adjoining the House. All these must be regarded as precincts of the House. But from their very situation strangers can have easy access to these buildings and places even without the permission of the Speaker. The exact limits of the precincts of this Assembly have therefore to be carefully determined. I therefore refer this matter to the Committee of Privileges to report on the construction they want to put on the expression 'Precincts of the House' as regards this Legislative Assembly. I must tell the House that I am not referring to the Committee of Privileges that is in existence now. I am only referring to the new Committee that will be constituted in a day or two for the next official year. Probably, after this session the House will meet in July or August. Whatever it is, I request the Committee to send its report to the House on the third day after the commencement of the next sitting of the House. Then the House may go into the matter."

APPENDIX II.

Note for the Committee of Privileges.

The members of the Legislature have to carry out their public duties as representatives of the people properly and effectively, and for that it is necessary that they should be allowed certain privileges, powers and certain immunities as necessary complements of their functions.